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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,868	10/26/2001	Deron C. Mc Cabe	00-2179	5214

7590

11/18/2003

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EXAMINER

WINDMULLER, JOHN

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/006,868

Applicant(s)

CABE, DERON C. MC

Examiner

John Windmuller

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment of 9/5/03 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mattson in view of Logson. The device of Mattson discloses the invention as claimed, including, inter alia, a chisel with an elongated body (Fig. 1, item 2) having first end and second end having female coupler (Fig. 1, unlabeled, opening at bottom end of item 2), annular flange (Fig. 1, item 5), tubular member having a pair of annular lips (Fig. 1, item 1', lips at top and bottom of member), at least one head with bit and male coupler (Fig. 2, item 3) opposite each other, said male coupler releasably secured to female coupler (Fig. 2, via item 7). But Mattson does not disclose a female coupler comprising a threaded bore extending into the second end of the elongated body and the male coupler comprising a threaded rod. However, Logson teaches a female coupler comprising a threaded bore (Fig. 2, item 46) extending into a second end of an elongated body and a male coupler comprising a threaded rod (Fig. 2, male threads at

46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Mattson with a female coupler comprising a threaded bore extending into the second end of an elongated body and a male coupler comprising a threaded rod as taught by Logson for efficient tool attachment.

4. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mattson in view of Peterson. The device of Mattson discloses the invention as claimed except for (cl. 4) a first handgrip extending around the elongated body between the second end and the flange, (cl. 5) a second handgrip extending around the elongated body adjacent the first end of the elongated body and having a diameter greater than the diameter of the aperture of the tubular member, (cl. 6) both handgrips having a plurality of finger receiving indentations. However, Peterson teaches a first handgrip (Fig. 1, 12, 15') extending around the elongated body between the second end and the flange, a second handgrip (Fig. 1, 14) extending around the elongated body adjacent the first end of the elongated body and having a diameter greater than the diameter of the aperture of the tubular member, both handgrips having a plurality of finger receiving indentations (Fig. 1, unlabeled, the knurl on 12, 15'). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Mattson with a first handgrip extending around the elongated body between the second end and the flange, a second handgrip extending around the elongated body adjacent the first end of the elongated body and having a diameter greater than the diameter of the aperture of the tubular member, both handgrips having a plurality of finger receiving indentations as taught by Peterson for efficient device operation.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mattson in view of Logson and Peterson and further in view of Gutierrez and Hull et al. The device of Mattson as modified by Logson and Peterson in paragraphs 5 and 6 above discloses the invention as claimed except for an elongated body with a circular cross section and a plurality of heads . However, Gutierrez teaches a plurality of heads (Figs. 2-9) and Hull et al. teach an elongated body with a circular cross section (Figs. 1 and 7, item 14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Mattson with a plurality of heads as taught by Gutierrez and an elongated body with a circular cross section as taught by Hull et al. to provide a strong and versatile tool.

Response to Arguments

6. Applicant's arguments on pages 7-8 of the amendment regarding claim 2 have been fully considered but they are not persuasive. The fact that, regarding the device of Mattson, "the shock of the blows upon the tool will be absorbed by the shoulder 4" (col. 2, lines 22-23) does not mean that it would not have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Mattson with the female coupler comprising a threaded bore (Fig. 2, item 46) extending into a second end of an elongated body and a male coupler comprising a threaded rod (Fig. 2, male threads at 46) of Logsdon. Upon looking at both references, one of ordinary skill in the art would see the benefit of modifying Mattson with Logsdon in this manner in order to

simplify the tool of Mattson as well as provide it with a more intuitive and easier means of attaching and removing the shank.

7. Applicant's arguments on pages 9-10 of the amendment have been fully considered but they are not persuasive. The knurling of Peterson does contain indentations (the score lines of 14, 15, 15') which by their design receive the fingers of the user. Furthermore, it is well known in the art to have finger indentations in handles of devices of many different types where the bearing of weight or shock is an issue, as shown additionally by Jarock (Fig. 1, 14, 16).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

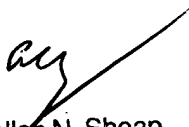
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Windmuller whose telephone number is 703 305-4988. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703 308-1082. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305-1148.


JW


Allan N. Shoap
Supervisory Patent Examiner
Group 3700